



In the Court of Additional District Judge, Devbhoomi Dwarka @ Dwarka.

Civil Misc. Application No. 13 of 2025.

APPLICANT :~

Sejalba Hemantsinh Chauhan.

Age about 48 years, Occupation :
House-hold, Residing opp. Darbargarh,
Arambhada, Taluka : Dwarka,
District : Devbhoomi Dwarka.

VERSUS

OPPONENTS :--

Nobody.

Application u/S. 50, 52, 53, 54 of the
Mental Health Act 1987.

.....
Appearance :--

Ld. Adv. Mr. J. H. Choksi on behalf of applicant.

Nobody on behalf of opponent
.....

~: J U D G M E N T :~

(1) The applicant Sejalba Hemantsinh Chauhan is a legally wedded wife of her Mentally Ill Husband Hemantsinh Kanji Chauhan having age of 48 years. The applicant has filed the

Additional District Judge, Dwarka.

present application u/s. 50, 52, 53, 54 of the Mental Health Act, 1987. The applicant has stated that her Husband Hemantsinh Kanji Chauhan has having following movable and immovable properties which has been mentioned in para- 2, 3, 4, 5 & 6 of the present application. The applicant further has stated that her husband is suffering mental illness since long time and he has completely lost his memory as he was suffering from (1) Ride Side Hemiplagia Effect R.T.A. in 60 % and (2) Intellectual Impairment in 75 % and her husband is not capable to take care of himself and his properties.

SCHEDULE "A"

Description of Immovable Properties possess by Mentally Challenged Hemantsinh Kanji Chauhan

- | Sr. No. | Description of Immovable Properties |
|---------|---|
| (1) | The non-agricultural Plot bearing Plot No. 25 paiki 2 of Revenue Survey No. 5/2 admesuring about 4560 Sq.Ft. i.e. 423.79 sq.mts situated at Village : Surajkaradi, Taluka : Dwarka, District : Devbhoomi Dwarka. The said plot has been purchased by Hemantsinh Kanji Chauhan and residential house has been built upon it. |
| (2) | The residential house constructed upon Land bearing Revenue Survey No. 1 and having City Survey No. 623 of Sheet No. 13 admesuring about 92.06 sq.mts and having Satta Prakar "A" situated in village : Surajkaradi, Taluka : Dwarka, District : Devbhoomi Dwarka. The Hemantsinh Kanji Chauhan is having undivided share in the said property as it originally belongs to his mother Samkunvarba Kanji Chauhan, who has been died on 10.01.2001. |
| (3) | The agricultural land bearing New Revenue Survey No. 284 (old Revenue Survey No. 268) admesuring about Hecter-Are-Sq.mts = 06-23-69 Akar Rs. 4.70 situated at Village : Arambhada, Taluka : Dwarka, District : Devbhoomi Dwarka. The Hemantsinh Kanji Chauhan and his brother Mahendrasinh Kanji Chauhan are co-owner of the said land. |

- (4) The agricultural land bearing New Revenue Survey No. 303 (old Revenue Survey No. 253 paiki 2 paiki 2) admesuring about Hecter-Are-Sq.mts = 01-29-62 Akar Rs. 1.70 situated at Village : Arambhada, Taluka : Dwarka, District : Devbhoomi Dwarka. The Hemantsinh Kanji Chauhan and his brother Mahendrasinh Kanji Chauhan are co-owner of the said land.

SCHEDULE "B"

Description of movable Properties possess by Mentally Challenged Hemantsinh Kanji Chauhan

Sr. No.	Description of Movable Properties
(1)	The current Bank Account No. 5020000710596111 of HDFC Bank, Mithapur Branch, which is in joint names of Hemantsinh Kanji Chauhan and his brother Mahendrasinh Kanji Chauhan, which account is having in name of "Kanji Meghji Chauhan".
(2)	The current Bank Account No. 30325376289 of State Bank of India, Surajkaradi-Mithapur Branch, which is in joint names of Hemantsinh Kanji Chauhan and his brother Mahendrasinh Kanji Chauhan, which account is having in name of "Kanji Meghji Chauhan".
(3)	The Saving Bank Account No. 07460100007409 of Bank of Baroda, Mithapur Branch, which is in sole name of Hemantsinh Kanji Chauhan.
(4)	The Saving Bank Account No. 10874308244 of State Bank of India, Surajkaradi-Mithapur Branch, which is in sole name of Hemantsinh Kanji Chauhan.
(5)	The Saving Bank Account No. 7802011633 of Saurashtra Gramin Bank, Surajkaradi Branch, which is in sole name of Hemantsinh Kanji Chauhan.
(6)	The Saving Account No. 9740670430 of Post Office Department, Mithapur, which is in sole name of Hemantsinh Kanji Chauhan.
(7)	The Saving Bank Account No. 326510110000966 of Bank of India, Dwarka Branch, which is in sole name of Hemantsinh Kanji Chauhan.
(8)	The Hemantsinh Kanji Chauhan and his brother Mahendrasinh Kanji Chauhan are the partner of partnership concern viz. "Kanji Meghji Chauhan", in which Hemantsinh Kanji Chauhan is having 30 % share and his brother Mahendrasinh Kanji Chauhan is having 70 % share.

(2) It has been stated by the applicant that her Husband Hemantsinh Kanji Chauhan is mentally ill since last more than 2 years and he is not able to think good for his own and due to intellectual disability, he is unable to take care of himself or his properties. It has been also stated that being a legally wedded wife, the applicant is taking care of him. It has been also stated that treatment of her husband is going on at Govt. Hospital, Khambhaliya and hospital has issued certificate which is produced at M-3/1 and which is declaring following disabilities :-

Sr. No	Disability	Name of Affected Body Part	Diagnosis	Disability (in %)
(1)	Locomotor Disability	Right Upper Limb and Lower Limb	Right Side Hemiplagia Affect RTA	60 %
(2)	Mental Illness	Brain	Intellectual Impairment	75 %

(3) It has been stated that applicant is bearing all the cost for treatment and maintenance and even in future, more expenses have to be spent on his treatment. It has been also stated that as his mentally ill husband is incapable of taking care of himself and of managing his properties and therefore prayed that applicant be appointed as a guardian under Section 53 of the Mental Health Act for taking of care of his person and also be appointed as Manager under Section 54 of the Mental Health Act for the management of his property. It is stated that husband of applicant "Hemantsinh Kanji Chauhan" is mentally unstable since

long time being the husband is residing with the present applicant and present applicant is taking all care and doing all expenditure for his maintenance, nurture and treatment. Hence, the applicant has prayed to appoint her as a guardian of person of and manager of said properties of her mentally ill husband "Hemantsinh Kanji Chauhan".

(4) The public notice is ordered to be issued in Devbhoomi Dwarka Edition of daily news papers Divya Bhaskar and accordingly a public notice was also published in the daily news paper "Divya-Bhasker" on 13.05.2025 (M-5/1), inviting written objections from the interested persons against the relief prayed by the applicant, but nobody came forward to contest the application and hence the evidence produced by the applicant remains unchallenged.

(5) From the above referred submissions of the Ld. Advocate for the applicant, following points emanate for determination :~

1. Whether the applicant proves that she is entitled to get relief as prayed for ?
2. To what relief ?

(6) My findings on the aforesaid points are as under for the following reasons:~

1. In the affirmative.
2. As per final order.

~: R E A S O N S :~

Point No.1:~

(7) I have heard the Ld. Advocate for the applicant. Read the application, affidavit and the documentary evidences. I have also gone through the oral as well as the documentary evidence.

(8) Before deciding the present application, I would like to quote here the settled provision of law that Section 50 of the Mental Health Act, 1987 casts a duty upon the Court to determine judicially whether the alleged person is of unsound mind and that the unsoundness of mind is such as to make him incapable of managing his affairs. Similarly, Section 52 of the Mental Health Act requires the Court to record a finding that the alleged mentally ill person is in fact mentally ill and is incapable of taking care of himself and of managing his property, before any order for the appointment of guardian under Section 53 to take care of his person and of a manager under Section 54 for the management of his property is passed. Sub-Section (2) of Section 59 of Act empowers the District Court to grant permission to the manager of mentally ill persons to mortgage, create a charge on, or to transfer by sale, gift, exchange or to lease out any immovable property of the mentally ill persons subject to such conditions or restrictions as considered fit. The said sections reproduced below :--

“52. Provision for appointing guardian of mentally ill person and for manager of property.—

(1) Where the District Court records a finding that the alleged mentally ill person is in fact mentally ill and is incapable of taking care of himself and of managing his property, it shall make an order for the appointment of a guardian under section 53 to take care of his person and of a manager under section 54 for the management of his property.

(2) Where the District Court records a finding that the alleged mentally ill person is in fact mentally ill and is incapable of managing his property but capable of taking care of himself, it shall make an order under section 54 regarding the management of his property.

(3) Where the District Court records a finding that the alleged mentally ill person is not mentally ill, it shall dismiss the application.

(4) Where the District Court deems fit, it may appoint under sub-section (1) the same person to be the guardian and manager.

53. Appointment of guardian of mentally ill person.—

(1) Where the mentally ill person is incapable of taking care of himself, the District Court or, where a direction has been issued under sub-section (2) of section 54, the Collector of the District, may appoint any suitable person to be his guardian.

(2) In the discharge of his functions under sub-section (1), the Collector shall be subject to the supervision and control of the State Government or of any authority appointed by it in that behalf.

54. Appointment of manager for management of property of mentally ill person.—

(1) Where the property of the mentally ill person who is incapable of managing it is such as can be taken charge of by a Court of Wards under any law for the time being in force, the District Court shall authorize the Court of Wards to take charge of such property, and thereupon notwithstanding anything contained in such law, the Court of Wards shall assume the management of such property in accordance with that law.

(2) Where the property of the mentally ill person consists in whole or in part of land or of any interest in land which cannot be taken charge of by the Court of Wards, the District Court may, after obtaining the consent of the Collector of the District in which the land is situate, direct the Collector to take charge of the person and such part of the property or interest therein of the mentally ill person as cannot be taken charge of by the Court of Wards.

(3) Where the management of the property of the mentally ill person cannot be entrusted to the Court of Wards or to the Collector under sub-section (1) or sub-section (2), as the case may be, the District Court shall appoint any suitable person to be the manager of such property.

(9) The applicant has produced the Disability Certificate of her mentally ill Husband "Hemantsinh Kanji Chauhan" at M-3/1, which suggested that said "Hemantsinh" is suffering from

intellectual disability and he has 75 % permanent disability in relation to his intelligence. The applicant has also produced affidavit (Ex.19) of Dr Naresh Dadubhai Dethariya, and he has deposed that he has examined the patent "Hemantsinh Kanji Chauhan" who is mentally ill since long time and "Hemantsinh" is suffering mental decease and he is intellectual disable person having 75 % of intellectual disability. He has also deposed that "Hemantsinh" is incapable to take care of himself and also to manage his properties. He has also deposed that he has issued the certificate of disability. I have seen the file, statements and documents. The applicant has produced oral evidence by way of affidavit at Ex. 6. She has supported the contentions of the application. The sisters of said "Hemantsinh" Mrs. Sobhnaba d/o Kanji Chauhan and w/o Pratapsinh Varan & Mrs. Ilaba d/o Kanji Chauhan and w/o Prateshsinh Solanki and Mrs. Dakshaba d/o Kanji Chauhan & w/o Hitenkumar Vaghela and Mrs. Damyantiben d/o Kanji Chauhan & w/o Pradipsinh Sindha and Mrs. Gitaba d/o Kanji Chauhan & w/o Chandrasinh Sodha have produced oral evidence by way of affidavit Ex. 8, 9, 11, 12 & 13. They have also supported the contents of the application. The daughters of said "Hemantsinh" Ms. Tishaba Hemantsinh Chauhan has produced oral evidence by way of affidavit at Ex.10. She has also supported the contents of the application. The Sons of said "Hemantsinh" Mr.

Pruthvirajsinh Hemantsinh Chauhan and Mr. Mayurrajsinh Hemantsinh Chauhan have produced oral evidence by way of affidavit at Ex.14 & 16, whereas the brother of said "Hemantsinh" Mr. Mahendrasinh Kanji Chauhan has produced oral evidence by way of affidavit at Ex. 15 and they all have also supported the contents of the application. This court is also satisfied that mentally ill person Hemantsinh Kanji Chauhan is incapable of taking care of himself and also incapable of managing his property. Further in-spite of public notice no one has come forwarded and filed objection against appointment of present applicant as guardian and manager of Mentally ill person "Hemantsinh" and I am satisfied that there is no conflict of interest. Accordingly, the present application is hereby granted and the applicant Sejalba Hemantsinh Chauhan is hereby appointed as legal guardian of mentally ill person "Hemantsinh Kanji Chauhan" u/s. 53 of the Mental Health Act for taking care of her and also as Manager u/s. 54 of the Mental Health Act for managing property of him, Provided that the applicant being a manager shall not mortgage, create any charge on, or, transfer by sale, gift, exchange or otherwise, any immovable property of the mentally ill person or lease out any such property for a period exceeding five years, unless she obtains the permission of the District Court in that behalf. It is further clarified that other movable properties if any

including cash and other national saving certificates/ shares/debentures, after maturity, be en-cashed and also deposited in FDR in any Nationalized bank and the interest accruing thereon may be withdrawn by the applicant for the purpose of upkeep, maintenance, medicines and other miscellaneous expenses of mentally ill person "Hemantsinh Kanji Chauhan" and with further to the condition that applicant shall not separate the residence of mental ill person "Hemantsinh Kanji Chauhan" from her residence and money or property, if any of mentally ill person "Hemantsinh Kanji Chauhan" shall be used only for his care, benefit and improvement. With this observation the petition stands disposed off.

Pronounced today 09th March, 2026.

Date : 09/03/2026.

(Kaushikkumar Jashvantlal Modi)
Additional District Judge, Devbhoomi Dwarka
at Dwarka Code No.GJ00597

Self